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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE G. C. BHARUKA

WRIT PETITION NO. 33953/1997

BETWEEN: -

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Shivapuji,
Driver T.No. 905,
K.S.R.T.C.,
Puttur Depot,
Puttur.

..PETITIONER

(By Sri M.C. Naresimhan, Advocate)

AND: -

1. Karnataka State Road Transport Corporation Ltd., K.H. Road, Sarige Bhavan, Bangalore-560 027.
2. represented by the Chairman & Managing Director.
2. The Chief Traffic Manager, KSRTC., Central Office, K.H. Road, Sarige Bhavan, Bangalore-560 027.
3. The Divisional Controller, KSRTC., Mangalore.
4. The Divisional Controller, KSRTC., Raichur.

..RESPONDENTS

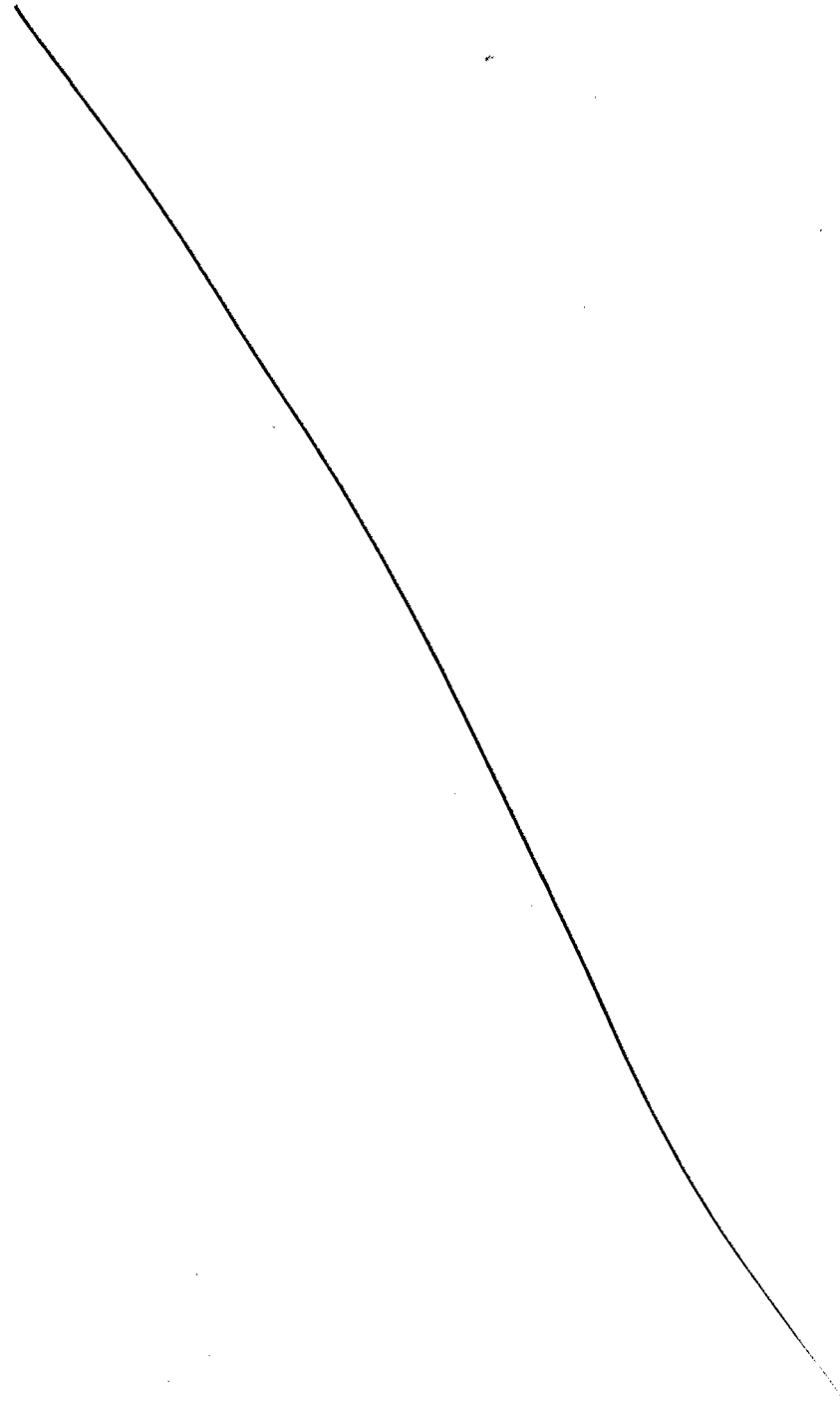
(By Sri L. Govindraju, Advocate)

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-: 2 :-

This Writ Petition filed u/a 226 & 227 of the Constitution of India praying to quash vide Annex-B & A dt. 24/25-9-97 & 1-9-97 by R3 & R2 respectively and etc.

This Writ Petition coming on for orders, this day, the Court made the following:-



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O R D E R

Heard Mr. M.C. Narasimhan, learned counsel for the petitioner and Mr. L. Govindaraj, learned Standing Counsel for the respondent - Karnataka State Road Transport Corporation (hereinafter 'KSRTC'). With the consent of the parties, the writ petition is taken up for final disposal.

2. The present writ petition is directed against the order dt. 1.9.1997 (Annexure 'A') passed by the 2nd respondent transferring the petitioner from Raichur Division to Mangalore Division and endorsement dt. 24/25.9.1997 (Annexure 'B') issued by the 3rd respondent rejecting the representation filed by the petitioner for posting to drive a Light Motor Vehicle.

3. Admittedly, the petitioner had been taken into services of KSRTC as a driver on the basis of Heavy Passenger Motor Vehicle Driving Licence produced by him. Unfortunately, as stated by the petitioner, on 14.2.1984, when he was travelling in a bus of KSRTC as an additional driver met with an accident causing greivous injuries including fractures to him. Subsequently, after recovery, as per the medical advice he was taken into duty and the respondent-KSRTC assigned the duties of driving Light Motor Vehicle. Now, after a lapse of almost 12 years from the date of accident, the managment of the respondent-KSRTC found that the petitioner is physically fit to drive Heavy Passenger Motor Vehicle and accordingly the impugned order at Anneuxre 'A' has been passed. It seems, the 3rd respondent assigned the duties of Heavy Passenger Motor Vehicle and the petitioner seems to have made a representation before the 3rd

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respondent for posting to drive a Light Motor Vehicle on the ground of disability. However, the 3rd respondent turned down his representation by issuing the impugned endorsement at Annexure 'B'.

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4. So far as transfer order at Annexure 'A' is concerned, I find no admissible grounds to interfere with the same since the transfer is nothing to do with the physical disability as claimed by the petitioner. But so far as entrustment of duty to drive Heavy Passenger Motor Vehicle is concerned, this Court, by order dt. 21.1.1998 had directed the petitioner's case to medical board to ascertain the veracity of the statement. But, for the one or the other reason the same has not been conducted so far.

5. Mr. Govindraj, learned Standing Counsel for the Corporation, states that though as directed by this Court medical board has been constituted with the sole member being the District Medical Officer, Mangalore, but till today no date has been fixed for physical examination of the petitioner. Mr. Govindraj further assures that within a reasonable time physical examination of the petitioner would be done by the District Medical Officer, Mangalore.

6. Accordingly, the petitioner is directed to appear in person before the District Medical Officer, Mangalore, on 25.6.1998 for his physical examination, on which date, the said Medical Officer should examine him and send his report to the Divisional Controller, K.S.R.T.C, Mangalore within THREE days from the date of examination. On that day, if he finds any convenience, he may fix another date which should not be later than 18.6.1998 and send his report within THREE days thereof. After, receiving the medical report, the 3rd

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respondent will take appropriate decision keeping in view the physical condition of the petitioner and the provisions of Regulation 20(c) of the Regulations.

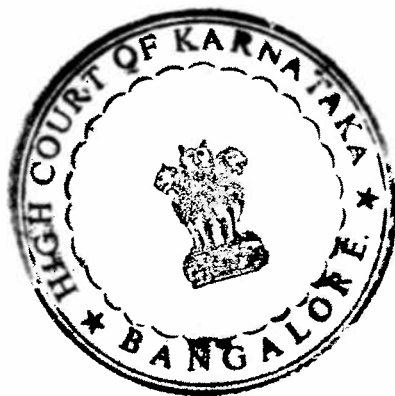
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7. It has been pointed out by Mr. Govindaraj, learned Standing Counsel for the respondent Corporation that the petitioner has not reported for duty ~~from~~ ^{on} 15.6.1997 which is being disputed by the learned counsel for the petitioner. Anyhow, it is not a matter of adjudication by this Court. If the management finds that the petitioner is guilty of misconduct by remaining absent unauthorisedly, then it will be open for them to proceed against the petitioner by initiating appropriate disciplinary proceedings. It seems, there is already disciplinary proceedings ^{pending} ~~initiated~~ against the petitioner as per Annexure 'J'.

8. With this direction the writ petition is disposed of.

9. Let a copy of this order immediately be sent to the District Medical Officer, Mangalore.

Sd/-
JUDGE



jsk/-